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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-769

13 **ACCUSATION**

14 JERRY NAM DANG  
2516 Kent Street, Apt. 1  
Los Angeles, CA 90026  
15 Registered Nurse License No. 757985

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about August 17, 2009, the Board of Registered Nursing (Board) issued  
24 Registered Nurse License Number 757985 to Jerry Nam Dang (Respondent). The Registered  
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on February 28, 2013, unless renewed.

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**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code.

**STATUTORY PROVISIONS**

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after expiration.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 2762 states, in pertinent part:

....

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1       “(b) Use any controlled substance... or dangerous device as defined in section 4022, or  
2 alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any  
3 other person, or the public or to the extent that such use impairs his or her ability to conduct with  
4 safety to the public the practice authorized by his or her license.

5       “(c) Be convicted of a criminal offense involving the prescription, consumption, or self  
6 administration of any of the substances described in subdivisions (a) and (b) of this section....”

7                               **COST RECOVERY PROVISION**

8       8.     Section 125.3 provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licensee found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

12                               **CAUSE FOR DISCIPLINE**

13                               **(Disciplinary Action by Another Board)**

14       9.     Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), in  
15 that he was disciplined by the California Board of Vocational Nursing and Psychiatric  
16 Technicians, as follows:

17             a.     On or about April 2, 2010, pursuant to Findings of Fact, Conclusions of Law  
18 and Order, in the action entitled *In the Matter of the Accusation Against Jerry Nam Dang*,  
19 Case No. VN-2007-71, the Board of Vocational Nursing and Psychiatric Technicians  
20 placed Respondent's license on probation for a three-year period with terms and conditions.

21             b.     As set forth in the Findings of Fact, Respondent engaged in, including, but not  
22 limited to, the following conduct:

23                 i)     Respondent has subjected his license to discipline under Code sections  
24 2878, subdivision (f) and 490, for a conviction substantially related to his  
25 qualifications, functions and duties as a licensed vocational nurse in that on March 4,  
26 2008, in the Superior Court, County of Los Angeles, in the case entitled *People of the*  
27 *State of California vs. Jerry N. Dang*, (Super. Ct., 2007, Case No. 7WA02295),

28                 ///

Respondent was convicted by the court on his plea of no contest of violating Vehicle Code section 23103 (alcohol related reckless driving), a misdemeanor.

ii) The circumstances that led to the conviction are as follows: On or about June 30, 2007, Respondent was stopped by a Los Angeles Police Officer for speeding. The officer paced Respondent's vehicle down the freeway at 85 miles per hour. The officer activated his emergency equipment to stop Respondent. Respondent failed to yield immediately but eventually exited from the freeway and stopped on the off ramp. The officer directed Respondent to pull off the freeway ramp. As the officer spoke with Respondent, he noted the odor of an alcoholic beverage and slurred speech. Respondent's eyes were bloodshot and watery. Respondent failed the Field Sobriety Test and breath tests administered at the police station returned with readings of 0.12% and 0.12%. Respondent was charged with violation of Vehicle Code section 23152(a) (Driving Under the Influence of Drugs/Alcohol) and Vehicle Code section 23152(b) (Driving with a Blood Alcohol Content of 0.08% or greater). Pursuant to a plea agreement, Respondent pled guilty to violation of Vehicle Code section 23103 (alcohol related reckless driving).

iii) Respondent was sentenced to probation for 36 months, ordered to pay \$390 in penalties and assessments, and ordered to work 13 days for CalTrans/Graffiti Removal.

#### **SECOND CAUSE FOR DISCIPLINE**

##### **(Consumption of Alcoholic Beverages To an Extent That Was Injurious to Himself or the Public)**

10. Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in that Respondent consumed alcohol beverages to an extent that was injurious to himself or the public resulting in a conviction for alcohol-related reckless driving, as more particularly set forth in paragraph 9 above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct Involving Alcoholic Beverages)**

3 11. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
4 grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in that  
5 Respondent was convicted of a crime involving alcoholic beverages, as more particularly set forth  
6 in paragraph 9 above.

7 **FACTORS IN AGGRAVATION**

8 12. To determine the degree of penalty to be imposed upon Respondent, if any,  
9 Complainant alleges that on February 23, 2006, in the Superior Court, County of Los Angeles,  
10 California, in the matter entitled People vs. Jerry Nam Dang, (Super. Ct., 2006, Case No.  
11 5PM07091), Respondent was convicted by the court of a violation of Vehicle Code section  
12 23103, subdivision (A) (reckless driving on a freeway).

13 13. The circumstances that led to the conviction are as follows: On August 21, 2005,  
14 Respondent's vehicle was observed by CHP Officer Conkle to be stopped on the off ramp from  
15 westbound State Route 60 with the rear of the vehicle in the right turn only lane and the front of  
16 the vehicle facing south across the off ramp lanes and protruding into the intersection about 2.5  
17 feet. The officer made contact with Respondent whose movements appeared slow and  
18 uncoordinated. The officer detected alcohol on Respondent's breath and that his eyes were red,  
19 watery, and droopy. Respondent stated that he had "a couple of beers". Respondent was not able  
20 to perform the Field Sobriety Tests satisfactorily. He was brought to the Sheriff's office and  
21 submitted to a breath test. The results of that test were 0.10% and 0.10%.

22 14. Pursuant to a plea bargain, Respondent pled guilty to violation of Vehicle Code  
23 section 23103(a) (reckless driving) and was placed on summary probation for 3 years, was  
24 ordered to 2 days in jail, and required to pay fines and penalties totaling \$412.

25 15. Respondent disclosed this conviction in his application for a vocational nurse license  
26 on August 16, 2006. On November 30, 2006, the Board of Vocational Nursing and Psychiatric  
27 Technicians, requested that Respondent provide a written description of the circumstances  
28 surrounding this conviction. On December 27, 2006, Respondent provided a written explanation

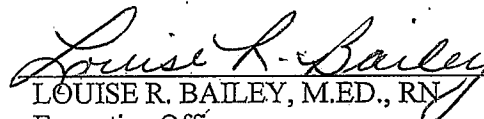
1 of the events surrounding this conviction. On January 7, 2007, the Board advised Respondent that  
2 the conviction he sustained was substantially related to the vocational nurse license, but granted  
3 Respondent a license because he was in compliance with the terms and conditions of his  
4 sentencing and he had no subsequent convictions. The Board advised Respondent that as a  
5 licensed vocational nurse, Respondent is responsible for being honest and ethical and warned that  
6 any future violation of the law or regulations governing his practice as a licensed vocational nurse  
7 may result in disciplinary action against his license.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 757985 issued to Jerry  
12 Nam Dang.  
13 2. Ordering Jerry Nam Dang to pay the Board the reasonable costs of the investigation  
14 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and  
15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: 3/15/11

  
LOUISE R. BAILEY, M.Ed., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

Case No. VN-2007-71

JERRY N. DANG  
2100 W. Commonwealth Ave., #2106  
Fullerton, CA 92833

Vocational Nurse License No.  
VN 225763

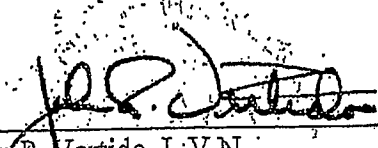
Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 2, 2010.

IT IS SO ORDERED this 3<sup>rd</sup> day of March, 2010.

  
John P. Vertido, L.V.N.,  
President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 MARICHELE S. TAHIMIC  
Deputy Attorney General  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **JERRY N. DANG, LVN**  
13 8555 Colgate Avenue, Apt. #2  
14 Los Angeles, CA 90048

15 Vocational Nurse License No. VN 225763

16 Respondent.

Case No. VN-2007-71

OAH No. 2009070356

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Board of Vocational Nursing and Psychiatric Technicians of  
20 the Department of Consumer Affairs, the parties hereby agree to the following Stipulated  
21 Settlement and Disciplinary Order which will be submitted to the Board for approval and  
22 adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the  
25 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her  
26 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of  
27 the State of California, by Marichelle S. Tahimic, Deputy Attorney General.

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2. Jerry N. Dang, LVN (Respondent) is represented in this proceeding by attorney Benjamin Fenton, of FENTON NELSON, whose address is, 11835 West Olympic Boulevard, Suite 925, Los Angeles, CA 90064.

3. On or about February 7, 2007, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse license No. VN 225763 to Jerry N. Dang, LVN, Respondent. The Vocational Nurse license expired on February 28, 2009, and has not been renewed.

## JURISDICTION

4. Accusation No. VN-2007-71 was filed before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 22, 2009. Respondent timely filed a Notice of Defense contesting the Accusation. A copy of Accusation No. VN-2007-71 is attached as exhibit A and incorporated herein by reference.

### ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. VN-2007-71. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. VN-2007-71.

9. Respondent agrees that his vocational nurse license is subject to discipline and he agrees to be bound by the Board of Vocational Nursing and Psychiatric Technicians (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Vocational Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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1 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 DISCIPLINARY ORDER

5  
6 IT IS HEREBY ORDERED that Vocational Nurse license No. VN 225763 issued to  
7 Respondent Jerry N. Dang, LVN, is revoked. However, the revocation is stayed and Respondent  
8 is placed on probation for three (3) years on the following terms and conditions.

9 1. OBEY ALL LAWS: Respondent shall obey all federal, state and local laws,  
10 including all statutes and regulations governing the license. Respondent shall submit, in writing, a  
11 full and detailed account of any and all violations of the law, including alleged violations, to the  
12 Board within five (5) days of occurrence.

13 To ensure compliance with this condition, respondent shall submit fingerprints through the  
14 Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective  
15 date of the decision, unless the Board determines that fingerprints were previously submitted by  
16 the respondent to the Board.

17 Respondent shall also submit to the Board a recent 2" x 2" photograph of himself within  
18 thirty (30) days of the effective date of the decision.

19 If respondent is under a criminal court order, including probation or parole, and the order is  
20 violated, it shall be deemed a violation of these probation conditions.

21 2. COMPLIANCE WITH PROBATION PROGRAM. Respondent shall fully  
22 comply with the conditions of probation established by the Board and shall cooperate with  
23 representatives of the Board in its monitoring and investigation of the respondent's compliance  
24 with the Probation Program.

25 Upon successful completion of probation, the respondent's license will be fully restored.

26 3. SUBMIT WRITTEN REPORTS. Respondent shall submit or cause to be  
27 submitted, under penalty of perjury, any written reports, declarations and verification of actions  
28 as required by the Board or its representatives. These reports or declarations shall contain

1. statements relative to respondent's compliance with all the conditions of the Board's Program.

2 Respondent shall immediately execute all release of information forms as may be required by the  
3 Board or its representatives.

4 In the first report, Respondent shall provide a list of all states and territories where he has  
5 ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse.

6 Respondent shall provide information regarding the status of each license and any change in  
7 license status during the period of probation. Respondent shall inform the Board if he applies for  
8 or obtains a new nursing or psychiatric technician license during the period of probation.

9 Respondent shall provide a copy of the Board's decision to the regulatory agency in every  
10 state and territory in which he has applied for or holds a vocational/practical nurse, psychiatric  
11 technician and/or registered nurse license.

12 4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S).

13 Respondent shall notify the Board, in writing, within five (5) days of any change in address or  
14 telephone number(s).

15 Respondent's failure to claim mail sent by the Board may be deemed a violation of these  
16 probation conditions.

17 5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE.

18 Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to  
19 reside or practice in another state. Periods of residency or practice outside of California shall not

20 apply toward a reduction of this probation time period. If Respondent resides or practices outside  
21 of California, the period of probation shall be automatically extended for the same time period he  
22 resides or practices outside of California. The respondent shall provide written notice to the  
23 Board within five (5) days of any change of residency or practice.

24 Respondent shall notify the Board, in writing, within five (5) days; upon his return to  
25 California.

26 6. MEETINGS WITH BOARD REPRESENTATIVE(S). Respondent shall appear  
27 in person at meetings as directed by the Board or its designated representatives.

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1 7. NOTIFICATION TO EMPLOYER(S). When currently employed or applying for  
2 employment in any capacity in any health care profession, Respondent shall notify his employer  
3 of the probationary status of Respondent's license. This notification to the Respondent's current  
4 health care employer shall occur no later than the effective date of the Decision. The respondent  
5 shall notify any prospective health care employer of his probationary status with the Board prior  
6 to accepting such employment. At a minimum, this notification shall be accomplished by  
7 providing the employer or prospective employer with a copy of the Board's Accusation and  
8 Disciplinary Decision.

9 The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse,  
10 Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical  
11 Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical  
12 health care positions.

13 Respondent shall cause each health care employer to submit to the Board all performance  
14 evaluations and any other employment related reports as required by the Board. Respondent shall  
15 notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of  
16 such an event.

17 Respondent shall notify the Board, in writing, within five (5) days of any change in  
18 employment status. Respondent shall notify the Board, in writing, if he is terminated or  
19 separated, regardless of cause, from any nursing or health care related employment with a full  
20 explanation of the circumstances surrounding the termination or separation.

21 8. EMPLOYMENT REQUIREMENTS AND LIMITATIONS. Respondent shall  
22 work in his licensed capacity in the state of California. The Board will allow Respondent to work  
23 as a registered nurse to fulfill the requirements of probation. This practice, either as a licensed  
24 vocational nurse or as a registered nurse, shall consist of no less than six (6) continuous months  
25 and of no less than twenty (20) hours per week.

26 Respondent shall not work for a nurses' registry or in any private duty position, a temporary  
27 nurse placement agency, as a faculty member in an accredited or approved school of nursing, or  
28 as an instructor in a Board approved continuing education course except as approved, in writing,

1 by the Board. Respondent shall work only on a regularly assigned, identified and predetermined  
2 work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

3 9. **SUPERVISION REQUIREMENTS.** Before commencing or continuing  
4 employment in any health care profession, Respondent shall obtain approval from the Board of  
5 the supervision provided to the respondent while employed.

6 Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the  
7 person who oversees or directs licensed vocational nurses, psychiatric technicians, certified  
8 nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during  
9 the period of probation except as approved, in writing, by the Board.

10 10. **COMPLETION OF EDUCATIONAL COURSE(S).** Respondent, at his own  
11 expense, shall enroll and successfully complete a course(s) substantially related to the violation(s)  
12 no later than the end of the first year of probation.

13 The coursework shall be in addition to that required for license renewal. The Board shall  
14 notify the respondent of the course content and number of contact hours required. Within thirty  
15 (30) days of the Board's written notification of assigned coursework, Respondent shall submit a  
16 written plan to comply with this requirement. The Board shall approve such plan prior to  
17 enrollment in any course of study.

18 Upon successful completion of the course, respondent shall submit "original" completion  
19 certificates to the Board within thirty (30) days of course completion.

20 11. **MAINTENANCE OF VALID LICENSE.** Respondent shall, at all times, maintain  
21 an active current license with the Board including any period of suspension.

22 If an initial license must be issued (Statement of Issues) or a license is reinstated, probation  
23 shall not commence until a license is issued by the Board. Respondent must complete the  
24 licensure process within two (2) years from the effective date of the Board's decision.

25 Should Respondent's license expire, by operation of law or otherwise, upon renewal or  
26 reinstatement, Respondent's license shall be subject to any and all conditions of this probation not  
27 previously satisfied.

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12. **COST RECOVERY REQUIREMENTS.** Respondent shall pay to the Board costs

associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,267.00.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board with payments to be completed no later than three months prior to the end of the probation period. The filing of bankruptcy by Respondent shall not relieve respondent of his responsibility to reimburse the Board for its investigation and prosecution costs. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

If Respondent has not complied with this condition during the probationary period, and Respondent presents sufficient documentation of his good faith effort to comply with this condition, and if no other conditions have been violated, the Board or its representatives may, upon written request from the respondent, extend the probation period up to one year, without further hearing, in order to comply with this condition. During the extension, all original conditions of probation will apply.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

13. **LICENSE SURRENDER.** During probation, if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the conditions of probation,

Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A licensee who surrenders his license may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision for the surrender:

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1 Three (3) years for reinstatement of a license surrendered for any reason other than a mental  
2 or physical illness; or One (1) year for a license surrendered for a mental or physical illness.

3 14. VIOLATION OF PROBATION. If Respondent violates the conditions of his  
4 probation, the Board, after giving the respondent notice and an opportunity to be heard, may set  
5 aside the stay order and impose the stayed discipline (revocation) of the respondent's license. If  
6 during probation, an accusation or petition to revoke probation has been filed against the  
7 respondent's license or the Attorney General's Office has been requested to prepare an accusation  
8 or petition to revoke probation against the respondent's license, the probationary period shall  
9 automatically be extended and shall not expire until the accusation or petition has been acted  
10 upon by the Board.

11 15. CHEMICAL DEPENDENCY SUPPORT & RECOVERY GROUPS. Within  
12 five (5) days of the effective date of the Decision, Respondent shall begin attendance at a  
13 chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse  
14 Support Group). Verified documentation of attendance shall be submitted by the respondent with  
15 each written report as required by the Board. Respondent shall continue attendance in such a  
16 group for the duration of probation.

17 16. ABSTAIN FROM CONTROLLED SUBSTANCES. Respondent shall completely  
18 abstain from the personal use or possession of controlled substances, as defined in the California  
19 Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of  
20 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for  
21 a bona fide illness.

22 17. ABSTAIN FROM USE OF ALCOHOL. Respondent shall completely abstain  
23 from the use of alcoholic beverages and products containing alcohol.

24 18. SUBMIT BIOLOGICAL FLUID SAMPLES. Respondent shall immediately  
25 submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee.  
26 There will be no confidentiality in test results; positive test results will be immediately reported to  
27 the Board and the respondent's current employer.

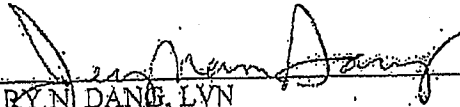


ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Benjamin Fenton. I understand the stipulation and the effect it will have on my Vocational Nurse license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

DATED:

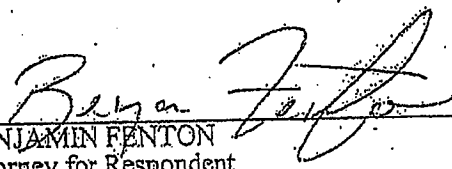
11/10/09

  
JERRY N. DANG, LVN  
Respondent

I have read and fully discussed with Respondent Jerry N. Dang, LVN, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

11/10/09

  
BENJAMIN FENTON  
Attorney for Respondent

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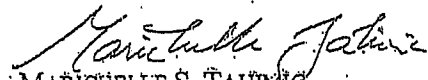
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of the Department of Consumer Affairs.

Dated: Nov. 10, 2007.

Respectfully Submitted,

EDMUND G. BROWN JR,  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
MARICHELLE S. TAHIMIE  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. VN-2007-71**

**FILED**

APR 22 2009

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9 **BEFORE THE**  
10 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2007-71

13 JERRY N. DANG, AKA

JERRY NAM DANG

14 2100 W. Commonwealth Avenue, #2106

Fullerton, California 92833

15 Vocational Nurse License No. VN 225763

16 Respondent.

**ACCUSATION**

18 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the  
21 Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department  
22 of Consumer Affairs,

23 Vocational Nurse License

24 2. On or about February 7, 2007, the Board of Vocational Nursing and  
25 Psychiatric Technicians issued Vocational Nurse License Number VN 225763 ("license") to  
26 Jerry N. Dang, also known as Jerry Nam Dang ("Respondent"). The license expired on February  
27 28, 2009.

28 ///

## JURISDICTION

3. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

## STATUTORY PROVISION AND REGULATIONS

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct. . .

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

- (a) Procuring a license by fraud, misrepresentation, or mistake,
- (b) A conviction of practicing medicine without a license in violation of Chapter

1 5 of Division 2 of the Business and Professions Code.

2 (b) A conviction of practicing medicine without a license in violation of Chapter  
3 5 of Division 2 of the Business and Professions Code.

4 (c) Violating or attempting to violate, directly or indirectly, or assisting in or  
5 abetting the violation of, or conspiring to violate any provision or term of Chapter  
6 6.5, Division 2 of the Business and Professions Code.

7 (d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether  
8 a licensed physician or not, in the performance of or arranging for a violation of  
9 any of the provisions of Article 13, Chapter 5, Division 2 of the Business and  
10 Professions Code.

11 (e) Conviction of a crime involving fiscal dishonesty.

12 (f) Any crime or act involving the sale, gift, administration, or furnishing of  
13 "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022  
14 of the Business and Professions Code.

15  
16 8. Section 493 of the Code states:

17 Notwithstanding any other provision of law, in a proceeding conducted by  
18 a board within the department pursuant to law to deny an application for a license  
19 or to suspend or revoke a license or otherwise take disciplinary action against a  
20 person who holds a license, upon the ground that the applicant or the licensee has  
21 been convicted of a crime substantially related to the qualifications, functions,  
22 and duties of the licensee in question, the record of conviction of the crime shall  
23 be conclusive evidence of the fact that the conviction occurred, but only of that  
24 fact, and the board may inquire into the circumstances surrounding the  
25 commission of the crime in order to fix the degree of discipline or to determine if  
26 the conviction is substantially related to the qualifications, functions, and duties  
27 of the licensee in question.

28 As used in this section, 'license' includes 'certificate,' 'permit,'  
'authority,' and 'registration.'

9. Section 2878.6 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo  
contendere made to a charge substantially related to the qualifications, functions  
and duties of a licensed vocational nurse is deemed to be a conviction within the  
meaning of this article. The board may order the license suspended or revoked, or  
may decline to issue a license, when the time for appeal has elapsed, or the  
judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a  
subsequent order under the provisions of Section 1203.4 of the Penal Code  
allowing such person to withdraw his plea of guilty and to enter a plea of not  
guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
information or indictment.

10. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the  
meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional  
conduct for a person licensed under this chapter to do any of the following:

1 (b) Use any controlled substance as defined in Division 10 of the Health  
2 and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic  
3 beverages, to an extent or in a manner dangerous or injurious to himself or  
4 herself, any other person, or the public, or to the extent that the use impairs his or  
5 her ability to conduct with safety to the public the practice authorized by his or  
6 her license.

7 (c) Be convicted of a criminal offense involving possession of any  
8 narcotic or dangerous drug, or the prescription, consumption, or  
9 self-administration of any of the substances described in subdivisions (a) and (b)  
10 of this section, in which event the record of the conviction is conclusive evidence  
11 thereof.

12 12. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to  
14 evaluate the rehabilitation of a person when:

- 15 (a) Considering the denial of a license by the board under Section 480; or  
16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation  
18 furnished by the applicant or licensee.

19 13. Title 16 of the Code of Regulations, section 2522 identifies the following  
20 criteria in evaluating the rehabilitation of an individual:

- 21 (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.  
22 (2) Actual or potential harm to the public.  
23 (3) Actual or potential harm to any patient.  
24 (4) Overall disciplinary record.  
25 (5) Overall criminal actions taken by any federal, state or local agency or court.  
26 (6) Prior warnings on record or prior remediation.  
27 (7) Number and/or variety of current violations.  
28 (8) Mitigation evidence.  
(9) In case of a criminal conviction, compliance with terms of sentence and/or  
court-ordered probation.  
(10) Time passed since the act(s) or offense(s) occurred.  
(11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
Penal Code section 1203.4.  
(12) Cooperation with the Board and other law enforcement or regulatory agencies.  
(13) Other rehabilitation evidence.

#### COST RECOVERY

14. Code section 125.3 provides, in pertinent part, that the Board may request  
the administrative law judge to direct a licensee found to have committed a violation or  
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
and enforcement of the case.

1. FIRST CAUSE FOR DISCIPLINE

2. (March 4, 2008 Conviction for Alcohol-related

3. Reckless Driving on June 30, 2007)

4. 15 Respondent has subjected his license to discipline under Code sections  
5. 2878, subdivision (f) and 490, for a conviction substantially related to his qualifications,  
6. functions and duties as a licensed vocational nurse in that on March 4, 2008, in the Superior  
7. Court, County of Los Angeles, in the case entitled *People of the State of California vs. Jerry N.*  
8. *Dang*, (Super. Ct., 2007, Case No. 7WA02295), Respondent was convicted by the court on his  
9. plea of no contest of violating Vehicle Code section 23103 (alcohol related reckless driving), a  
10. misdemeanor.

11. 16. The circumstances that led to the conviction are as follows: On or about  
12. June 30, 2007, Respondent was stopped by a Los Angeles Police Officer for speeding. The  
13. officer paced Respondent's vehicle down the freeway at 85 miles per hour. The officer activated  
14. his emergency equipment to stop Respondent. Respondent failed to yield immediately but  
15. eventually exited from the freeway and stopped on the off ramp. The officer directed  
16. Respondent to pull off the freeway ramp. As the officer spoke with Respondent, he noted the  
17. odor of an alcoholic beverage and slurred speech. Respondent's eyes were bloodshot and  
18. watery. Respondent failed the Field Sobriety Test and breath tests administered at the police  
19. station returned with readings of 0.12% and 0.12%. Respondent was charged with violation of  
20. Vehicle Code section 23152(a) (Driving Under the Influence of Drugs/Alcohol) and Vehicle  
21. Code section 23152(b) (Driving with a Blood Alcohol Content of 0.08% or greater). Pursuant to  
22. a plea agreement, Respondent pled guilty to violation of Vehicle Code section 23103 (alcohol  
23. related reckless driving).

24. 17. Respondent was sentenced to probation for 36 months, ordered to pay  
25. \$390 in penalties and assessments, and ordered to work 13 days for CalTrans/Graffiti Removal.

26. ///

27. ///

28. ///



1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct Involving Alcoholic Beverages)

3 18. Respondent is subject to discipline under Code section 2878, subdivision  
4 (a), on the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision  
5 (c), in that Respondent has been convicted of a crime involving alcoholic beverages, as more  
6 particularly set forth in paragraphs 15-17, above.

7 THIRD CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct Involving Alcoholic Beverages

9 To an Extent that is Injurious to Himself or the Public)

10 19. Respondent is subject to discipline under Code section 2878, subdivision  
11 (a) on the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision (b),  
12 in that Respondent has been convicted of reckless driving, as more particularly set forth in  
13 paragraphs 15-17, above.

14 FACTORS IN AGGRAVATION

15 20. To determine the degree of penalty to be imposed upon Respondent, if  
16 any, Complainant alleges that on February 23, 2006, in the Superior Court, County of Los  
17 Angeles, California, in the matter entitled *People vs. Jerry Nam Dang*, (Super. Ct., 2006, Case  
18 No. 5PM07091), Respondent was convicted by the court of a violation of Vehicle Code section  
19 23103, subdivision (A) (reckless driving on a freeway).

20 21. The circumstances that led to the conviction are as follows: On August  
21 21, 2005, Respondent's vehicle was observed by CHP Officer Conkle to be stopped on the off  
22 ramp from westbound State Route 60 with the rear of the vehicle in the right turn only lane and  
23 the front of the vehicle facing south across the off ramp lanes and protruding into the intersection  
24 about 2.5 feet. The officer made contact with Respondent whose movements appeared slow and  
25 uncoordinated. The officer detected alcohol on Respondent's breath and his eyes were red,  
26 watery and droopy. Respondent stated he had "a couple of beers". Respondent was not able to  
27 perform the Field Sobriety Tests satisfactorily. He was brought to the Sheriff's office and  
28 submitted to a breath test. The results of that test were 0.10% and 0.10%.

22. Pursuant to a plea bargain, Respondent pled guilty to violation of Vehicle Code section 23103(a) (reckless driving) and was placed on summary probation for 3 years, was ordered to 2 days in jail, and required to pay fines and penalties totaling \$412.

23. Respondent disclosed this conviction in his application for a vocational nurse license on August 16, 2006. On November 30, 2006, the Board requested Respondent provide a written description of the circumstances surrounding this conviction. On December 27, 2006, Respondent provided a written explanation of the events surrounding this conviction. On January 7, 2007, the Board advised Respondent that the conviction he sustained was substantially related to the vocational nurse license but granted Respondent a license because he was in compliance with the terms and conditions of his sentencing and he had no subsequent convictions. The Board advised Respondent that as a licensed vocational nurse, Respondent is responsible for being honest and ethical and warned that any future violation of the law or regulations governing his practice as a licensed vocational nurse may result in disciplinary action against his license.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision;

1. Revoking or suspending Vocational Nurse License Number VN 225763,  
issued to Jerry N. Dang, also known as Jerry Nam Dang;

2. Ordering Jerry N. Dang, also known as Jerry Nam Dang to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case; pursuant to Code section 125.3; and,

1.11

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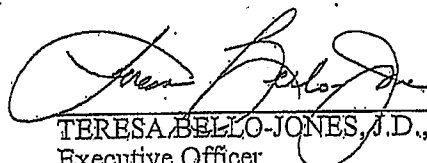
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3. Taking such other and further action as deemed necessary and proper.

DATED: April 22, 2009



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

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